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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/526,987	03/07/2005	Ryosuke Toriyama	NIS-15982	6978

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EXAMINER	
LOWEN, ALYSSA	
ART UNIT	**PAPER NUMBER**
3711	

DATE MAILED: 10/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/526,987	TORIYAMA ET AL.	
	Examiner	Art Unit	
	Alyssa M. Lowen	3711	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *16 August 2006*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *5-10 and 19-21* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *5-10 and 19-21* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *07 March 2005* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *3/7/05*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Information Disclosure Statement

1. The information disclosure statement (IDS) submitted on 3/7/05 is in compliance with the provisions of 37 CFR 1.97 and 37 CFR 1.98. Accordingly, the information disclosure statement is being considered by the examiner.

Priority

2. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claim 19 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claim recites the limitation "said front wheel and /or said rear wheels" in line 7. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6. Claims 5-9 and 19-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Matsuzaka (JP 2000-325671), Patch (5203733) and Fors (3462148). Matsuzaka discloses a remote-controlled traveling toy having a remote control device or mechanism to control an electronic drive mechanism or motor by means of a transmitter that outputs a remote control signal (abstract) with two front wheels (3,4) and two rear wheels (5,6) wherein the diameter sizes of the rear wheels are different (Fig. 1). Patch discloses a play board for use with remote-controlled traveling toys (Fig. 14) having a travel surface on which the toy travels that is continuous in a circumferential direction (Fig. 14) and has a height that when measured from an installation surface decreases toward a central portion thereof (Fig. 2). It would have been obvious to one of ordinary skill in the art from the teaching of Patch to include a play board with the device of Matsuzaka in order to be allow the traveling toy to be used indoors (column 1 lines 25-36). The references disclose the basic inventive concept, substantially as claimed, with the exception of the central portion of the play board having formed therein a concave section with a size capable of fully receiving the front or rear wheels and a depth allowing the toy to get out of the concave section by itself. Fors discloses a play board having a central portion (14) with a concave section therein (Fig. 2) capable of fully receiving the front and rear wheels of a traveling toy having one front wheel and two rear wheels (Figs. 3 & 4) and a depth that could allow the toy to exit the section (Fig. 6). It would have been obvious to one of ordinary skill in the art from the teaching of Fors to include a central concave portion in order to provide obstacles to the car should it go off

track and to have a car with one front wheel and two back wheels in order to provide a car with a simplified construction that would be easier to manufacture.

7. With regard to the traveling surface being divided into four adjacent surfaces with the angle between the inner periphery surface of the concave section and the installation surface being in the range of 93±1°, the angle between the second surface and the installation surface being in the range of 32.2° to 42.2°, the angle between the third surface and the installation surface being in the range of 48±2° and the angle between the fourth surface and the installation surface being in the range of 89±1°, the examiner notes that ranges are an unpatentable modification unless the particular ranges claimed produce new and unexpected results, which are different in kind and not merely in degree. *See in re Dreyfus, 24 USPQ 52, in re Waite et al, 77 USPQ 586.*

8. With regard to the travel surface having a first inclined surface adjacent to the concave section and having a first radius of curvature, a second inclined surface continuous with an outside of said first inclined surface and having a second radius of curvature close to infinity, a third inclined surface continuous with an outside of said second inclined surface and having a third radius of curvature smaller than the first radius of curvature, and a fourth inclined surface continuous with an outside of the third inclined surface and having a fourth radius of curvature smaller than the third radius of curvature wherein the width sizes of said first, second, third, and fourth inclined surfaces become smaller in the order of the second inclined surface then the first inclined surface followed by the third inclined surface, and lastly the fourth inclined surface. At the time the invention was made, it would have been an obvious matter of design choice to a

person of ordinary skill in the art to have the various sections with a particular radius of curvature because Applicant has not disclosed that the radius of curvature for the particular sections provides an advantage, is used for a particular purpose, or solves a stated problem. One of ordinary skill in the art, furthermore, would have expected Applicant's invention to perform equally well a standard radius of curvature for the entire traveling surface because it creates a toy traveling surface that still requires skill on the part of the user in navigating the traveling toy about the surface.

9. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Matsuzaka, Patch, Fors and Derrah (6074271). The references disclose the basic inventive concept, substantially as claimed, with the exception of a horizontal surface being provided outside the fourth inclined surface. Derrah discloses a play board for use with remote control traveling vehicles having a horizontal surface along an outer edge (Fig. 23). It would have been obvious to one of ordinary skill in the art from the teaching of Derrah to include a horizontal surface in order to provide more areas on the play board on which the traveling toy may be maneuvered (Fig. 23).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alyssa M. Lowen whose telephone number is 571-272-2684. The examiner can normally be reached on M-F (8-4:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eugene Kim can be reached on 571-272-4463. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

AML

EUGENE KIM
SUPERVISORY PATENT EXAMINER